

Message Text

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ACTION TRSE-00

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FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC PRIORITY 1485

LIMITED OFFICIAL USE JAKARTA 3765

E.O. 11652: N/A

TAGS: EFIN, ID

SUBJECT: INDONESIAN-U.S. TAX CONVENTION

REFS: A. STATE 021830; B. JAKARTA 3717

1. SUMMARY: EMBASSY/GOI REACHED AGREEMENT ON FINAL TAX TREATY LANGUAGE ISSUES. ACTIONS REQUESTED: APPROVAL OF LANGUAGE PROPOSED AND ADVICE RE SIGNING AUTHORITY. END SUMMARY.

2. IN MARCH 26 MEETING WITH INDONESIAN OFFICIAL TO RESOLVE FINAL GOI/USG TAX CONVENTION ISSUES, WE COM- PROMISED ON FOLLOWING DEFINITION ARTICLE 3 (B): "THE TERM INDONESIA MEANS THE REPUBLIC OF INDONESIA AND ALSO MEANS: (I) THE TERRITORY OF ..." BOTH SIDES AGREED ALSO TO SUBSTITUTE "HAS" FOR "EXERCISES" IN ARTICLE 3 (A) (II) SO THAT SUB-PARAGRAPHS (II) READ: "HAVE/HAS SOVEREIGN RIGHTS..."

3. INDONESIAN RELUCTANT ACCEPT TERMS "REPUBLIC OF INDONESIA" AND "EXERCISES" AND OTHER LANGUAGE CHANGES IN ARTICLE 3 MAINLY, IT APPEARED, BECAUSE PRECEDENT ESTABLISHED IN THEIR DUTCH, UK, GERMAN AND CANADIAN TREATIES. HOWEVER, THEY ALSO CONCERNED THAT ADDITIONAL DEFINITION, "THIS TERM ALSO LIMITED OFFICIAL USE

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COMPRISES", MIGHT ALSO IMPLY DIFFERENCES BETWEEN TERRITORIAL

AND GOVERNMENT ENTITIES -- IMPORTANT TO THEM TO AVOID BECAUSE UNITY OF THIS DIVERSE COUNTRY IS CARDINAL ELEMENT OF GOI POLITICAL PHILOSOPHY. SUCH DIFFERENCES UNDERSTANDABLE TO THEM FOR DESCRIBING FEDERAL STATE SUCH AS US BUT NOT UNITARY STATE SUCH AS INDONESIA. REPEATING USE OF TERM "MEANS", PARA 1 ABOVE, REPLACING "COMPRISES", RESOLVED THEIR CONCERN.

3. IF FOREGOING LANGUAGE ACCEPTABLE, WE PLAN INITIAL AGREED DRAFT TEXT SOONEST SINCE THEY INFORM US THIS CUSTOMARY AND WILL FACILITATE FINAL GOI CLEARANCE PROCESS. DESPITE WHATEVER SPEED WE IMPART, REMAINS HIGHLY UNCERTAIN GOI WILL MOVE FAST ENOUGH FOR SECRETARY SHULTZ TO SIGN APRIL 22. GOI REPS ALLUDED TO INTERNAL PROBLEMS, PRESUMABLY RELATED TO POLITICAL EVENTS SINCE JAN 15 RIOTS, AND TIME-CONSUMING PROCEDURES WHICH MIGHT PRECLUDE TIMELY CABINET CLEARANCE, AND URGED OUR UNDERSTANDING.

4. ACTIONS REQUESTED: (A) PLEASE ADVISE BY PRIORITY MESSAGE ACCEPTABILITY OF LANGUAGE PARA 1 ABOVE TO PERMIT EARLIEST POSSIBLE INITIATION OF GOI FINAL CLEARANCE; (B) WOULD APRIL 22 SIGNING BY SECRETARY SHULTZ REQUIRE SPECIAL SIGNING AUTHORITY?; (C) FAILING COMPLETION THAT DATE, WOULD NEW SIGNING AUTHORITY BE REQUIRED FOR AMBASSADOR NEWSOM?
NEWSOM

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